

FINAL Meeting Summary (accepted May 21, 2005)
Single Family Vacation Rentals on Kauai Meeting Series
Meeting 1 – Understanding the Framework/Defining the Issues

Meeting Place: Kauai Planning Commission Meeting Room
Lihue Civic Center, Moikeha Building, 4444 Rice Street, Room 2A and 2B
Friday, April 8, 2005, 1:00 - 7:00 p.m.

Stakeholder Group: Louie Abrams, Hilary Chandler, Ian Costa, Caren Diamond, Council Member Jay Furfaro, Lucy Kawaihalau, Chris Kobayashi, Koral McCarthy, Michael and Karen Olanolan, Bruce Pleas, Barbara Robeson, Leah Sousand, Joann Watanabe and Council Member JoAnn Yukimura

Facilitation Team: Jen Graf and Elizabeth Kent

Background and Overview of the Process

After welcoming everyone to the meeting, Mayor Bryan Baptiste expressed his wishes that the process be effective, cordial, and productive. The Stakeholder Group (comprised of people with differing points of view and diverse backgrounds) and facilitation team introduced themselves, and the Stakeholder Group accepted the ground rules (attached as Appendix 1).

The facilitator noted four ways that the public could be involved and share comments:

- sharing thoughts at two designated times during the meeting,
- on the written comment form available at the meeting (written and email comments will be available at the Planning Department web site at www.kauai.hawaii.gov.com),
- by writing comments on post it notes and placing them on the benefits/concerns list at the back of the room (comments will be available at the Planning Department web site at www.kauai.hawaii.gov.com), and
- by sending email messages or letters to the facilitators (written and email comments will be available at the Planning Department web site at www.kauai.hawaii.gov.com).

Additionally, Kauai sectional maps were posted outside the meeting room, and attendees were asked to mark the location of vacation rentals by placing “sticky dots” on the map.

Council Member Yukimura, Lucy Kawaihalau, and Bruce Pleas, members of the group that planned this meeting, talked about their hopes that the meeting would (1) bring together concerned people who could problem solve together to determine what was best for Kauai, (2) be a forum at which different viewpoints could be shared and also broadcast on Hoihe for the benefit of those that could not attend, and (3) provide the island with an opportunity for education and to clear up misconceptions. They also noted that materials are available for review, including a Glossary of Terms, Kauai Vacation Rental Study 1/204, Summary of TVR Ordinances in Hawaii, General Plan – TVR and

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Housing, VDA Ordinance – 1982, 1980 Legislature Report (available at the Planning Department web site at www.kauai.hawaii.gov.com).

Discussion Concerning Legal/Planning Framework

Ian Costa, Director of the Planning Department, stated that the Planning Department

- has never regulated vacation rentals,
- does not distinguish between single and multiple family homes, and
- retained Scott Ezer, a Planner with Helber Hastert & Fee Planners, to analyze and gather information concerning vacation rentals, Bed and Breakfasts, and to make a recommendation about next steps.

Mr. Costa also said that it is common practice for the County to allow activities not specifically prohibited by the County Zoning Ordinances (CZO). Bed and Breakfasts require use permits. (A distinction exists between Bed and Breakfast [where an owner is present on the property] and vacation rentals [where no owner is on the property]).

The Stakeholder Group discussed issues, and identified areas of concern, including

- existence of vacation rentals on land zoned non-residential,
- allowable activities on conservation lands and the permitting process for these activities,
- allowable activities on agricultural lands,
- the process for special permits,
- whether use of a single family home as a vacation rental should be considered a commercial activity, and
- resources for enforcement, and clarity issues that should be considered “enforcement issues.”

The group identified areas for clarity, including:

- the definition of “residential,”
- the definition of “resident,”
- the definition of “long term,”
- the definition of “short term,”
- the definition of “dwelling,”
- the definition of “ohana” unit,
- the definition of “residential dwelling for long term rental,”
- the definition of “residential dwelling for short-term rental,”
- whether the same rules should apply to residents and non-residents,
- further information about the different levels of “regulation,” and
- the amount of money that the county takes in from vacation rentals (Transit Accommodation Tax).

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Data collection was requested for:

- conservation lands – location and boundaries (this information was posted in the room),
- the number of Conservation District Use Applications granted,
- the number of long term vacation rentals,
- the number of short term vacation rentals,
- the number of vacation rentals owned by out of state residents,
- the number of vacation rentals owned by Hawaii residents,
- the number of vacation rentals used to support families,
- the number of vacation rentals used to pay mortgages until resale,
- percentage of vacation rentals in the Visitor Destination Areas,
- impact of single family vacation rental units on affordable housing, and
- density of vacation rentals in residential areas.

The Stakeholder Group discussed using empirical and anecdotal data to examine the impacts of vacation rentals. A request was made to put data from the meeting on Hoike.

The County Attorney was not present to address the legal framework for vacation rentals. It was requested that the County Attorney respond to questions in writing.

Attendees' Comments

- Thanks for dealing with this issue
- Broad statements need to be backed up by understanding and authority
- Cannot stop progress
- Supports rights of owners
- Questions over enforcement of new laws – will they be enforceable and will there be resources to enforce them?
- Eliminating vacation rentals does not necessarily put the units back into long-term rental market
- Can the income (taxes) from vacation rentals come back to Kauai County?
- This discussion raises constitutional issues
- Are the current laws being enforced?
- Fact finding is important (to avoid making decisions without enough information)
- No rentals = No visitors
- Where are the Visitor Destination Areas -- need maps, and can we confine vacation rental units to those areas?
- Must go forward, look forward
- Economic factors must be taken into account when deciding on future
- Property rights for non voters
- Not all short term rentals are vacation rentals
- If vacation rentals are regulated then families could be displaced and it could make the affordable housing situation worse

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Presentation of Speakers

There were four presentations:

- *Social/Economic Impact of Transient Vacation Rentals*, by John Knox
- *Vacation Rentals on Kauai: A Comparative Analysis of the Geographic and Economic Footprint*, by Ken Stokes (available at the Planning Department web site at www.kauai.hawaii.gov.com)
- *Poipu Paradise*, by Louie Abrams, and
- Scott Ezer, consultant to the Planning Department, spoke about how other counties addressed this issue. He noted that Kauai was privileged to be having this discussion because it is inclusive and allowed for discussion. Mr. Ezer stated that adopting a bill won't necessarily solve the problem (enforcement issues will still exist), but any law that is drafted will need to be reasonable, defensible (in court), and enforceable.

Attendees' Comments (Second Session)

- Aloha and spirit of place must be taken into account
- Issues is larger than vacation rentals
- Who will do enforcement?
- Emotional issue
- Enforcement is key
- Kauai needs economy of visitors
- Preservation of land is important to Kauai
- Visitors need places to stay
- Vacation rentals have not been proven to cause the lack of affordable housing

Stakeholder Discussion About Most Pressing Issue

The Stakeholder Group identified the most pressing issues, which seemed to fall into four groups:

Community Well Being/Balance

- Sustainable community
- Impact on community character-balance-maintain sense of community
- Unquantifiable qualities/intangibles-psychological well being of community
- Shared values-how to maintain them? Balance - keep Kauai Kauai
- Appreciation and recognition of value of vacation rentals
- Balance
- Percentage of vacation rentals versus residential units
- Social issues-connection with community, safety, etc.
- Over development of coastal areas (sewage, rental units in flood areas, etc.)

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Affordable Housing

- Balance of homes/rentals

Possible Solutions

- Success based on multifaceted approach (zoning, tax, incentives)
- Acceptable level of vacation rentals in non-resort areas
- Who gets opportunity to conduct vacation rentals in non-resort areas
- What do we do with existing vacation rentals in non-resort areas?
- Criteria for good law (defensible, enforceable, reasonable, and clear)
- Educate visitors about what to expect
- Plan to address taxation so monies stay in County
- Regulation of new construction
- Limits on number of visitors staying in residential areas

Enforcement

Next Meetings

The next meetings are tentatively scheduled for Saturday, May 21, and Monday, May 23. Those meetings will concentrate on finding solutions (based on the information presented at this meeting). Information about the meetings will be posted on the Planning Department web site.

Appendix 1 **Ground Rules**

ALL

- Meetings start and end on time.
- If someone arrives late, meeting attendees will not be required to start over.
- Treat each other with appreciation and recognition for each other's contributions.
- Be acknowledged before speaking.
- Listen to understand and avoid interrupting others.
- Turn off cell phones and beepers or put them on vibrate.
- Avoid "side conversations" when someone else has the floor.
- Focus on the "big picture"- what is best for Kauai
- Seek constructive discussions and raise all problems, because this will end up saving time in the long run and make the end product more successful. Express ideas and concerns and raise all issues during the meeting rather than waiting until after the meeting to share them. If you don't agree with the conversation or a decision that may be made, say something.

Committee

- Try to keep the group from making a bad decision.
- It is expected that members will carefully review all materials sent between meetings prior to attending the next meeting.
- Take adequate time to make decisions, but don't spend unnecessary time rehashing conversations.
- Stakeholder Group members should receive advance notice of decision-making.
- Stakeholder Group members will try to attend all meetings. If a member cannot attend, s/he may send a representative. It is expected that the member will brief the representative before the meeting, and the representative will brief the member after attending about what transpired.
- The people on this Stakeholder Group bring a wealth of experience by their diverse backgrounds, and they are here in that capacity and are not expected to bind their respective offices.
- Barring extraordinary circumstances, once a decision is made, it will not be reopened.
- The Stakeholder Group will strive to make decisions by consensus, but if members cannot reach consensus, then differing viewpoints will be included in the report, along with identification of names as acceptable to the parties.

Levels of Agreement

- 1) Agree (unqualified "Yes")
- 2) Agree, but . . . (Decision perfectly acceptable)
- 3) Ok, (Can live with the decision)
- 4) Not ok, but won't block decision (Don't fully agree with it)
- 5) Don't agree with decision (Can't live with it, will block)